

AMENDED IN SENATE MAY 15, 2012

AMENDED IN SENATE MAY 1, 2012

SENATE BILL

No. 1534

Introduced by Senator Harman

February 24, 2012

An act to amend *Section 53075.5 of the Government Code*, and to amend Section 26708 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1534, as amended, Harman. Vehicles: video event recorders.

Existing law prohibits a person from driving a motor vehicle with an object or material placed, displayed, installed, affixed, or applied upon the windshield or side or rear windows, or upon the vehicle that obstructs or reduces the driver's clear view through the windshield or side windows. Existing law provides that the above prohibition does not apply to, among other things, a video event recorder with the capability of monitoring driver performance to improve driver safety.

Existing law requires a city or county to protect the public health, safety, and welfare by adopting an ordinance or resolution with regard to taxicab transportation service rendered in vehicles that are operated within the jurisdiction of the city or county.

This bill would additionally exempt from that prohibition a video recorder that is installed, *as specified*, in a licenced taxicab ~~for purposes of routine video monitoring, as defined pursuant to a city or county ordinance or resolution if certain requirements are met.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53075.5 of the Government Code is
2 amended to read:

3 53075.5. (a) Notwithstanding Chapter 8 (commencing with
4 Section 5351) of Division 2 of the Public Utilities Code, ~~every a~~
5 city or county shall protect the public health, safety, and welfare
6 by adopting an ordinance or resolution ~~in~~ with regard to taxicab
7 transportation service rendered in vehicles designed for carrying
8 not more than eight persons, excluding the driver, ~~which is that~~
9 are operated within the jurisdiction of the city or county.

10 (b) ~~Each~~ A city or county shall provide for, but is not limited to
11 providing for, *all of* the following:

12 (1) A policy for entry into the business of providing taxicab
13 transportation service. The policy shall include, but need not be
14 limited to, all of the following provisions:

15 (A) Employment, or an offer of employment, as a taxicab driver
16 in the jurisdiction, including compliance with all of the
17 requirements of the program adopted pursuant to paragraph (3),
18 shall be a condition of issuance of a driver's permit.

19 (B) The driver's permit shall become void upon termination of
20 employment.

21 (C) The driver's permit shall state the name of the employer.

22 (D) The employer shall notify the city or county upon
23 termination of employment.

24 (E) The driver shall return the permit to the city or county upon
25 termination of employment.

26 (2) The establishment or registration of rates for the provision
27 of taxicab transportation service.

28 (3) (A) A mandatory controlled substance and alcohol testing
29 certification program. The program shall include, but need not be
30 limited to, all of the following requirements:

31 (i) Drivers shall test negative for each of the controlled
32 substances specified in Part 40 (commencing with Section 40.1)
33 of Title 49 of the Code of Federal Regulations, ~~before~~ *prior to*
34 employment. Drivers shall test negative for these controlled
35 substances and for alcohol as a condition of permit renewal or, if
36 no periodic permit renewals are required, ~~at such other times as~~
37 *any other time that* the city or county shall designate. As used in
38 this section, a negative test for alcohol means an alcohol screening

1 test showing a breath alcohol concentration of less than 0.02
2 percent.

3 (ii) Procedures shall be substantially *the same* as *those* in Part
4 40 (commencing with Section 40.1) of Title 49 of the Code of
5 Federal Regulations, except that the driver shall show a valid
6 California driver's license at the time and place of testing, and
7 except as provided otherwise in this section. Requirements for
8 rehabilitation and for return-to-duty and followup testing and other
9 requirements, except as provided otherwise in this section, shall
10 be substantially *the same* as *those* in Part 382 (commencing with
11 Section 382.101) of Title 49 of the Code of Federal Regulations.

12 (iii) A test in one jurisdiction shall be accepted as meeting the
13 same requirement in any other jurisdiction. Any negative test result
14 shall be accepted for one year as meeting a requirement for periodic
15 permit renewal testing or any other periodic testing in that
16 jurisdiction or any other jurisdiction, if the driver has not tested
17 positive subsequent to a negative result. However, an earlier
18 negative result shall not be accepted as meeting the
19 pre-employment testing requirement for any subsequent
20 employment, or any testing requirements under the program other
21 than periodic testing.

22 (iv) In the case of a self-employed independent driver, the test
23 results shall be reported directly to the city or county, which shall
24 notify the taxicab leasing company of record, if any, of positive
25 results. In all other cases, the results shall be reported directly to
26 the employing transportation operator, who may be required to
27 notify the city or county of positive results.

28 (v) All test results are confidential and shall not be released
29 without the consent of the driver, except as authorized or required
30 by law.

31 (vi) Self-employed independent drivers shall be responsible for
32 compliance with, and shall pay all costs of, this program with
33 regard to themselves. Employing transportation operators shall be
34 responsible for compliance with, and shall pay all costs of, this
35 program with respect to their employees and potential employees,
36 except that an operator may require employees who test positive
37 to pay the costs of rehabilitation and of return-to-duty and followup
38 testing.

39 (vii) Upon the request of a driver applying for a permit, the city
40 or county shall give the driver a list of the consortia certified

1 pursuant to Part 382 (commencing with Section 382.101) of Title
2 49 of the Code of Federal Regulations that the city or county knows
3 offer tests in or near the jurisdiction.

4 (B) No evidence derived from a positive test result pursuant to
5 the program shall be admissible in a criminal prosecution
6 concerning unlawful possession, sale, or distribution of controlled
7 substances.

8 (c) *The ordinance or resolution adopted pursuant to subdivision*
9 *(a) may require the placement of video recorders in taxicabs that*
10 *meet the requirements of paragraph (14) of subdivision (b) of*
11 *Section 26708 of the Vehicle Code if all of the following*
12 *requirements are met:*

13 (1) *The video recorder does not record audio.*

14 (2) *Only law enforcement agency personnel, as part of a*
15 *criminal investigation or for other public safety purposes, may*
16 *review the resulting video recordings.*

17 (3) *An employee or independent contractor driver shall be able*
18 *to disable the video recorder in the taxicab that he or she is*
19 *operating and shall be able to request and receive, free of charge,*
20 *copies of recordings made during his or her operation of that*
21 *taxicab.*

22 (4) *A taxicab in which video recording occurs shall have posted,*
23 *in at least two conspicuous locations, one on the inside and the*
24 *other on the outside of the vehicle, a notice to the passenger that*
25 *he or she is being video recorded.*

26 (5) *Video recordings that are not part of an on-going criminal*
27 *investigation shall be destroyed within 90 days of the date that a*
28 *recording was made.*

29 ~~(e) Each~~

30 (d) A city or county may levy service charges, fees, or
31 assessments in an amount sufficient to pay for the costs of carrying
32 out an ordinance or resolution adopted ~~in~~ with regard to taxicab
33 transportation services pursuant to this section.

34 ~~(d) Nothing in this~~

35 (e) *This section prohibits does not prohibit* a city or county from
36 adopting additional requirements for a taxicab to operate in its
37 jurisdiction.

38 ~~(e)~~

39 (f) For purposes of this section, “employment” includes
40 self-employment as an independent driver.

1 ~~SECTION 1.~~

2 *SEC. 2.* Section 26708 of the Vehicle Code is amended to read:

3 26708. (a) (1) A person shall not drive a motor vehicle with
4 an object or material placed, displayed, installed, affixed, or applied
5 upon the windshield or side or rear windows.

6 (2) A person shall not drive a motor vehicle with an object or
7 material placed, displayed, installed, affixed, or applied in or upon
8 the vehicle that obstructs or reduces the driver's clear view through
9 the windshield or side windows.

10 (3) This subdivision applies to a person driving a motor vehicle
11 with the driver's clear vision through the windshield, or side or
12 rear windows, obstructed by snow or ice.

13 (b) This section does not apply to any of the following:

14 (1) Rearview mirrors.

15 (2) Adjustable nontransparent sunvisors that are mounted
16 forward of the side windows and are not attached to the glass.

17 (3) Signs, stickers, or other materials that are displayed in a
18 seven-inch square in the lower corner of the windshield farthest
19 removed from the driver, signs, stickers, or other materials that
20 are displayed in a seven-inch square in the lower corner of the rear
21 window farthest removed from the driver, or signs, stickers, or
22 other materials that are displayed in a five-inch square in the lower
23 corner of the windshield nearest the driver.

24 (4) Side windows that are to the rear of the driver.

25 (5) Direction, destination, or terminus signs upon a passenger
26 common carrier motor vehicle or a schoolbus, if those signs do
27 not interfere with the driver's clear view of approaching traffic.

28 (6) Rear window wiper motor.

29 (7) Rear trunk lid handle or hinges.

30 (8) The rear window or windows, if the motor vehicle is
31 equipped with outside mirrors on both the left- and right-hand
32 sides of the vehicle that are so located as to reflect to the driver a
33 view of the highway through each mirror for a distance of at least
34 200 feet to the rear of the vehicle.

35 (9) A clear, transparent lens affixed to the side window opposite
36 the driver on a vehicle greater than 80 inches in width and that
37 occupies an area not exceeding 50 square inches of the lowest
38 corner toward the rear of that window and that provides the driver
39 with a wide-angle view through the lens.

(10) Sun screening devices meeting the requirements of Section 26708.2 installed on the side windows on either side of the vehicle's front seat, if the driver or a passenger in the front seat has in his or her possession a letter or other document signed by a licensed physician and surgeon certifying that the person must be shaded from the sun due to a medical condition, or has in his or her possession a letter or other document signed by a licensed optometrist certifying that the person must be shaded from the sun due to a visual condition. The devices authorized by this paragraph shall not be used during darkness.

(11) An electronic communication device affixed to the center uppermost portion of the interior of a windshield within an area that is not greater than five inches square, if the device provides either of the following:

(A) The capability for enforcement facilities of the Department of the California Highway Patrol to communicate with a vehicle equipped with the device.

(B) The capability for electronic toll and traffic management on public or private roads or facilities.

(12) A portable Global Positioning System (GPS), which may be mounted in a seven-inch square in the lower corner of the windshield farthest removed from the driver or in a five-inch square in the lower corner of the windshield nearest to the driver and outside of an airbag deployment zone, if the system is used only for door-to-door navigation while the motor vehicle is being operated.

(13) (A) A video event recorder with the capability of monitoring driver performance to improve driver safety, which may be mounted in a seven-inch square in the lower corner of the windshield farthest removed from the driver, in a five-inch square in the lower corner of the windshield nearest to the driver and outside of an airbag deployment zone, or in a five-inch square mounted to the center uppermost portion of the interior of the windshield. As used in this section, "video event recorder" means a video recorder that continuously records in a digital loop, recording audio, video, and G-force levels, but saves video only when triggered by an unusual motion or crash or when operated by the driver to monitor driver performance.

1 (B) A vehicle equipped with a video event recorder shall have
2 a notice posted in a visible location which states that a passenger's
3 conversation may be recorded.

4 (C) Video event recorders shall store no more than 30 seconds
5 before and after a triggering event.

6 (D) The registered owner or lessee of the vehicle may disable
7 the device.

8 (E) The data recorded to the device is the property of the
9 registered owner or lessee of the vehicle.

10 (F) When a person is driving for hire as an employee in a vehicle
11 with a video event recorder, the person's employer shall provide
12 unedited copies of the recordings upon the request of the employee
13 or the employee's representative. These copies shall be provided
14 free of charge to the employee and within five days of the request.

15 (14) ~~(A)~~ A video recorder that is installed in a licenced taxicab
16 ~~for purposes of routine video monitoring, pursuant to subdivision~~
17 ~~(c) of Section 53075.5 of the Government Code, and shall be~~
18 ~~mounted in any of the following locations:~~

19 (A) *In a seven-inch square in the lower corner of the windshield*
20 *farthest removed from the driver.*

21 (B) *In a five-inch square in the lower corner of the windshield*
22 *nearest to the driver and outside of an airbag deployment zone.*

23 (C) *In a five-inch square mounted to the center uppermost*
24 *portion of the interior of the windshield.*

25 ~~(B) For purposes of this paragraph the following definitions~~
26 ~~shall apply:~~

27 (i) ~~"Routine video monitoring" has the same meaning as defined~~
28 ~~in subdivision (c) of Section 53160 of the Government Code, but~~
29 ~~with regard to a taxicab, instead of a special district.~~

30 (ii) ~~"Video recorder" means a device that continuously records,~~
31 ~~in a digital loop, audio and video.~~

32 (c) Notwithstanding subdivision (a), transparent material may
33 be installed, affixed, or applied to the topmost portion of the
34 windshield if the following conditions apply:

35 (1) The bottom edge of the material is at least 29 inches above
36 the undepressed driver's seat when measured from a point five
37 inches in front of the bottom of the backrest with the driver's seat
38 in its rearmost and lowermost position with the vehicle on a level
39 surface.

40 (2) The material is not red or amber in color.

1 (3) There is no opaque lettering on the material and any other
2 lettering does not affect primary colors or distort vision through
3 the windshield.

4 (4) The material does not reflect sunlight or headlight glare into
5 the eyes of occupants of oncoming or following vehicles to any
6 greater extent than the windshield without the material.

7 (d) Notwithstanding subdivision (a), clear, colorless, and
8 transparent material may be installed, affixed, or applied to the
9 front side windows, located to the immediate left and right of the
10 front seat if the following conditions are met:

11 (1) The material has a minimum visible light transmittance of
12 88 percent.

13 (2) The window glazing with the material applied meets all
14 requirements of Federal Motor Vehicle Safety Standard No. 205
15 (49 C.F.R. 571.205), including the specified minimum light
16 transmittance of 70 percent and the abrasion resistance of AS-14
17 glazing, as specified in that federal standard.

18 (3) The material is designed and manufactured to enhance the
19 ability of the existing window glass to block the sun's harmful
20 ultraviolet A rays.

21 (4) The driver has in his or her possession, or within the vehicle,
22 a certificate signed by the installing company certifying that the
23 windows with the material installed meet the requirements of this
24 subdivision and the certificate identifies the installing company
25 and the material's manufacturer by full name and street address,
26 or, if the material was installed by the vehicle owner, a certificate
27 signed by the material's manufacturer certifying that the windows
28 with the material installed according to manufacturer's instructions
29 meet the requirements of this subdivision and the certificate
30 identifies the material's manufacturer by full name and street
31 address.

32 (5) If the material described in this subdivision tears or bubbles,
33 or is otherwise worn to prohibit clear vision, it shall be removed
34 or replaced.